

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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RECEIVED-FPSC
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RECORDS AND REPORTING

DATE: SEPTEMBER 14, 2000

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF COMPETITIVE SERVICES (ISLER) *Pif*
DIVISION OF LEGAL SERVICES (ELLIOTT) *JAE*

RE: DOCKET NO. 001005-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF PAY TELEPHONE CERTIFICATE NO. 5069 ISSUED TO GANG OF FIVE, INC. D/B/A CLUB FIVE FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 09/26/00 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\001005.RCM

CASE BACKGROUND

- **02/12/97** - This company obtained PATS Certificate No. 5069.
- **02/18/99** - The Commission received the company's 1998 Regulatory Assessment Fee (RAF) Return for the period ended December 31, 1998. The company reported no revenues.
- **12/08/99** - The Division of Administration mailed the RAF notice. Payment was due January 31, 2000.
- **02/29/00** - The Division of Administration mailed a delinquent notice to the company.
- **04/05/00** - The Commission received a letter from the company requesting cancellation of its certificate.

DOCUMENT NUMBER-DATE

11325 SEP 12 8

FPSC-RECORDS/REPORTING

DOCKET NO. 001005-1C

DATE: SEPTEMBER 14, 2000

- **04/07/00** - Staff wrote the company and explained that a voluntary cancellation could not be recommended when there is an outstanding balance of the RAFs. Staff advised the company that Commission records show that the 1997 and 1999 fees were outstanding, including penalty and interest charges.

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant Gang of Five, Inc. d/b/a Club Five a voluntary cancellation of PATS Certificate No. 5069?

RECOMMENDATION: No. The Commission should not grant the company a voluntary cancellation of its pay telephone certificate. The Commission should cancel the company's Certificate No. 5069 on its own motion, effective on the date of issuance of the Consummating Order. In the event the company fails to pay the past due fees, the collection of the fees should be referred to the Comptroller's Office for further collection efforts. (Isler)

STAFF ANALYSIS: After the Division of Administration mailed a delinquent notice on February 29, 2000, the company returned the notice, along with a letter requesting cancellation of its certificate. On April 7, staff wrote the company and explained that we could not recommend a voluntary cancellation when there is an outstanding balance of RAFs. Commission records show that the company did not pay the 1997 and 1999 RAFs, along with statutory penalty and interest charges for both years. In addition, the company owes the 2000 RAF.

Rule 25-4.0161, Florida Administrative Code, which implements Section 364.336, Florida Statutes, requires the payment of regulatory assessment fees by January 30, or the next business day, of the subsequent year for telecommunications companies, and provides for penalties and interest as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

As of September 5, 2000, the past due RAFs, including penalty and interest charges remain unpaid. Accordingly, the Commission should not grant the company a voluntary cancellation of its certificate. The Commission should cancel the company's Certificate No. 5069 on its own motion, effective on the date of issuance of the Consummating Order. In the event the company fails to pay the past due fees, the collection of the fees should be referred to the Comptroller's Office for further collection efforts.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, this docket should be closed upon issuance of a Consummating Order unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of issuance of the proposed agency action order. (Elliott)

STAFF ANALYSIS: Whether staff's recommendation on Issue 1 is approved or denied, the result will be a proposed agency action order. If no timely protest to the proposed agency action is filed within 21 days of the date of issuance of the Order, this docket should be closed upon the issuance of a Consummating Order.